

**SUPREME COURT OF THE  
STATE OF MICHIGAN**

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*In re* Estate of CLIFFMAN.

Supreme Court No. 151998  
Court of Appeals No. 321174  
Allegan County Probate Court  
File No. 13-58358-DE

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PHILLIP CARTER, ELMER CARTER, DAVID  
CARTER and DOUG CARTER,  
Appellants,  
vs.

RICHARD D. PERSINGER, Personal  
Representative of the Estate of GORDON JOHN  
CLIFFMAN, BETTY WOODWYK and  
VIRGINIA WILSON,  
Appellees.

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**APPELLANTS' SECOND MOTION TO FILE  
SUPPLEMENTAL LEGAL AUTHORITY**

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**APPELLANTS' SECOND MOTION TO FILE  
SUPPLEMENTAL LEGAL AUTHORITY**

NOW COME the Appellants, by their attorney of record, Law Office of Kenneth A. Puzycki, PLLC, and, pursuant to MCR 7.212(F), hereby ask this Honorable Court for leave to file the attached supplemental legal authority, to be appended to the Appellant's Supplemental brief filed on May 4, 2016.

Oral argument on this case is not anticipated until October or November, 2016. Appellants plan to discuss the authorities attached to this motion at oral argument, and want the Court and opposing counsel to have sufficient notice of the same.

The authority being offered is not new authority, and thus, a motion is required under 7.212(F).

The offered additional legal authority includes:

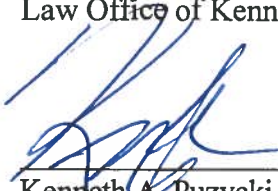
- (1) three provisions of Michigan's Marriage statute, *to wit*: MCL 551.3 thru 551.5;
- (2) a portion of Section 3 of the Michigan Use Tax Act, *to wit*: MCL 205.93(3), and
- (3) Michigan Department of Treasury form 248(Rev. 08-14), which is published to assist the citizens of Michigan in complying with Section 3 of that Use Tax Act.

The supplemental legal authority is attached to this motion as Exhibit A.

**RELIEF REQUESTED**

Appellants respectfully request leave to include the attached Exhibit A to their Supplemental Brief.

Respectfully,  
Law Office of Kenneth A. Puzycki, PLLC

  
\_\_\_\_\_  
Kenneth A. Puzycki (P45404)  
Attorney for the Appellants

8-1-16  
\_\_\_\_\_  
Date

**EXHIBIT A IS ATTACHED ON THE FOLLOWING PAGE**

**EXHIBIT A****Revised Statutes of 1846 (EXCERPT)  
Chapter 83. Of marriage and the solemnization thereof.****[MCL] 551.3 Incapacity; persons man prohibited from marrying.**

Sec 3. A man shall not marry his mother, sister, grandmother, daughter, granddaughter, stepmother, grandfather's wife, son's wife, grandson's wife, wife's mother, wife's grandmother, wife's daughter, wife's granddaughter, brother's daughter, sister's daughter, father's sister, mother's sister, or cousin of the first degree, or another man. (Emphasis added.)

**[MCL] 551.4 Incapacity; persons woman prohibited from marrying.**

Sec. 4. A woman shall not marry her father, brother, grandfather, son, grandson, stepfather, grandmother's husband, daughter's husband, granddaughter's husband, husband's father, husband's grandfather, husband's son, husband's grandson, brother's son, sister's son, father's brother, mother's brother, or cousin of the first degree, or another woman. (Emphasis added.)

**[MCL] 551.5 Bigamy prohibited.**

Sec. 5. No marriage shall be contracted whilst either of the parties has a former wife or husband living, unless the marriage with such former wife or husband, shall have been dissolved. (Emphasis added.)

USE TAX ACT (EXCERPT)  
Act 94 of 1937

[MCL] 205.93 Tax rate; applicability to tangible personal property or services; conversion to taxable use; penalties and interest; presumption; using, storing, or consuming vehicle, ORV, manufactured housing, aircraft, snowmobile, or watercraft; collection; price tax base; exemptions; services, information, or records of other department or agency; state share tax and local community stabilization share; total combined rate levied by state and authority; limitation.

Sec. 3.

. . .

(3) The following transfers or purchases are not subject to use tax:

(a) A transaction or a portion of a transaction if the transferee or purchaser is the spouse, mother, father, brother, sister, child, stepparent, stepchild, stepbrother, stepsister, grandparent, grandchild, legal ward, or a legally appointed guardian with a certified letter of guardianship, of the transferor.

(Emphasis added.)

. . . .

## Birth Certificates and Marriage Licenses

Copies of Michigan birth certificates and Michigan marriage licenses can be ordered online through the Michigan Department of Community Health Web site at [www.michigan.gov/mdch](http://www.michigan.gov/mdch).

## Manufacturer/Employee Discount Plans

Automobile manufacturers offer an employee benefit program that allows their employees to buy new vehicles at a discount. A common stipulation is that the vehicle title must remain in the purchasing employee's name for at least six months.

Frequently an employee will use the discount program to buy a vehicle for a friend, who will make all payments and accept transfer of title after the six-month period. The friend, who paid sales tax on the original purchase, will also have to pay use tax on the retail value of the vehicle when title is transferred six months later.

When such transactions involve relatives, the criteria and documentation required for the use tax exemption are the same as those for other vehicle transfers.

## Determining Tax Liability

Although use tax is collected by the Secretary of State when the title is transferred, Treasury is responsible for the final determination of the tax owed on all vehicle transfers. The tax on the transfer of a vehicle is 6 percent on the greater of the purchase price, or the retail value of the vehicle at the time of transfer.

If the final determination of tax liability differs from the amount collected when the title is transferred, the purchaser must pay the difference plus interest and possibly penalty. Penalties are severe if a claim for exemption from tax is determined to be fraudulent (up to 100 percent of the tax).

If your questions are not answered by the information in this brochure or the revenue bulletin, call the Technical Services Section at (517) 636-4357.

# Transferring a Vehicle Title to a Relative

## Use Tax Exemptions on Vehicle Title Transfers

Technical Services Section  
Michigan Department of Treasury  
P.O. Box 30698  
Lansing, MI 48909-8198

Telephone: (517) 636-4357  
TTY Assistance: 1-800-649-3777

## Use Tax Exemption for a Relative

Michigan grants an exemption from use tax when the buyer and seller have a qualifying family relationship.

### *The only qualifying relationships are:*

- Spouse
  - Parent (natural or adoptive)
  - Brother or Sister
  - Child (natural or adopted)
  - Grandparent or Grandchild
  - Step relationship (i.e. stepparent, stepbrother, stepsister, stepchild)\*
  - Legal ward or legally appointed guardian with a certified letter of guardianship.
  - In-laws
- \* The death of a stepparent or parent that were married at the time of death will not terminate the stepparent-stepchild or in-law relationship for purposes of the use tax exemption. However, if the stepparent/parent divorced prior to the transfer, the step and in-law relationship ceases to exist and the transfer is taxable.

## Non-Qualifying Relationships

Examples of relationships that **do not** qualify for a tax exemption include:

- Aunts, uncles, cousins, nieces, nephews, stepgrandparents or stepgrandchildren
- Former spouses
- Common-law relationships (unless the common-law marriage took place before January 1, 1957).

## Supporting Your Claim

The Michigan Department of Treasury (Treasury) is responsible for administering the collection of use tax, which includes the review of tax exemption claims made by individuals on vehicle transactions through the Secretary of State.

Anyone claiming a use tax exemption based on a family relationship must be able to provide documents supporting the claim if requested by Treasury. You are not required to bring the supporting documentation to the Secretary of State office when you transfer the title. However, if your claim is selected for review by Treasury after the title transfer, you will be required to provide documentation.

Documents to properly support your claim must show the relationship between you (the buyer) and the seller.

If an exemption claim is found to be invalid or cannot be proven, a penalty of up to 100% of the tax will be imposed for making a fraudulent claim.

The following examples show common claims and the documents required to verify the family relationship.

### **Example 1:**

Purchaser Kathy Smith buys a vehicle from seller Mary Brown. Kathy and Mary are sisters with the family name of Jones. Kathy claims the relative use tax exemption on the title transfer.

To support the claim, Kathy would be required to provide a copy of her and Mary's marriage licenses. The licenses should include the parents' names. If the parents' names are not on the marriage licenses, she must also provide a copy of her and Mary's birth certificates.

### **Example 2:**

David Cole gives a vehicle to Tina Wilson as a gift. Tina is David's daughter and is married to Brian Wilson. Tina claims the relative use tax exemption on the title transfer.

To support her claim, Tina would be required to provide a copy of her marriage license. If her marriage license does not include her father's name, she must also provide a copy of her birth certificate.

### **Example 3:**

Joe Young buys a vehicle from his wife's sister, Mary Jones. Because sister-in-law is a qualifying family relationship, the transfer is not subject to use tax.

To support the claim, Joe would be required to provide a copy of his and his wife's marriage license. The license should include the wife's parents' names and the wife's maiden name. He must also provide a copy of his sister-in-law's birth certificate and possibly his wife's birth certificate depending on the information on his marriage license. The documents should link the relationships to show proof of Joe's sister-in-law relationship to Mary.

### **Example 4:**

Ed Thomas purchases a vehicle from seller Tyler Arnold and claims the use tax exemption of stepbrother. Ed's father is married to Tyler's mother, which creates the step relationship. Documents required to substantiate this relationship are: copies of birth certificates indicating parents names for both Ed and Tyler along with a copy of the marriage license of their respective parents.

However, for use tax purposes only, if there is a divorce of the parents prior to the transfer, the step relationship ceases to exist, and the transfer is taxable.